

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

against

MARK MAIUZZO,

Supervisee.

No. 16-cr-522 (RJS)

ORDER

RICHARD J. SULLIVAN, Circuit Judge:

In connection with the upcoming sentencing of Supervisee Mark Mauizzo for violations of the terms of his supervised release, Supervisee's counsel submitted an ex parte letter to the Court on September 11, 2022 seeking orders for the production of medical records relevant to sentencing; counsel also requested that the letter and orders be maintained under seal. On September 12, 2022, the Court executed the requested orders, but directed Supervisee's counsel to submit another letter to the Court by September 16, 2022 justifying the ex parte and sealing requests. Having carefully considered the arguments set forth in Supervisee's September 16, 2022 letter, the Court now grants in part, and denies in part, Supervisee's requests.

Accordingly, IT IS HEREBY ORDERED THAT redacted versions of the September 11 and September 16 letters, which are attached to this order, shall be docketed by the Clerk of the Court. The Court finds that, with respect to those portions of the letters that relate to Supervisee's private health information and privileged attorney-client communications, the


presumption in favor of open records has been outweighed by Supervisee's privacy interests. *See United States v. Amodeo*, 71 F.3d 1044, 1050 (2d Cir. 1995). Unredacted copies of the letters will be filed under seal.

IT IS FURTHER ORDERED THAT Supervisee's counsel shall provide an unredacted version of the September 11 letter, as well as the September 12 orders, to the government in advance of sentencing. In light of the open discussion of Supervisee's substance abuse history at the September 9, 2022 hearing in this matter, the Court finds that Supervisee has not demonstrated a need for those materials to be maintained *ex parte*, given that these materials reveal neither privileged attorney-client communications, *see Upjohn Co. v. United States*, 449 U.S. 383, 395–96 (1981), nor defense strategy. Nevertheless, because the redacted portion of the September 16 letter *does* disclose privileged attorney-client communications, Supervisee need not provide the government with an unredacted version of that letter.

As previously ordered by the Court, the parties shall appear for sentencing on October 3, 2022, at 10:00 a.m. in Courtroom 21C at the Daniel Patrick Moynihan, 500 Pearl Street, New York, New York 10007. *See* Minute Entry (Sept. 9, 2022). Supervisee shall file his sentencing submissions no later than September 26, 2022; the government shall file its sentencing submission no later than September 29, 2022.

SO ORDERED.

Dated: September 23, 2022
New York, New York



RICHARD J. SULLIVAN
UNITED STATES CIRCUIT JUDGE
Sitting by Designation